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9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
11

12 **SANDRA KIRKMAN AND CARLOS**  
13 **ALANIZ, INDIVIDUALLY AND AS**  
14 **SUCCESSORS-IN-INTEREST TO**  
**JOHN ALANIZ, DECEASED,**

Plaintiffs,

15 v.

16 **STATE OF CALIFORNIA; RAMON**  
17 **SILVA; AND DOES 1-10,**  
18 **INCLUSIVE,**

Defendants.

Case No. 2:23-cv-07532-DMG-SSC

**DISCOVERY MATTER**

**JOINT STIPULATION  
REGARDING MOTION TO  
COMPEL COMPLIANCE WITH  
SUBPOENAS FOR DECEDENT'S  
MEDICAL AND/OR MENTAL  
HEALTH RECORDS**

Date: November 12, 2024

Time: 1:30 p.m.

Courtroom: 790

Discovery Cut Off: November 22, 2024

Pre-Trial Conf.: March 18, 2025

Trial: April 15, 2025

23 TO THE HONORABLE STEPHANIE S. CHRISTENSEN:

24 Pursuant to Local Rule 37-2, the parties hereby submit this Joint Stipulation  
25 regarding Plaintiffs' objections to Defendants' subpoenas duces tecum served upon  
26 third party, Veteran's Administration, located at 5901 E. 7th Street in Long Beach,  
27 California 90822.

28 ///

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**I. INTRODUCTORY STATEMENTS**

**A. Defendants' Introductory Statement**

This action arises out of an incident that occurred on May 4, 2022, when California Highway Patrol (CHP) dispatch received a 9-1-1 call reporting that a big rig had collided with a pedestrian (later determined to be Decedent John Alaniz) on the roadway of Interstate 105, westbound at Garfield Avenue. It was also reported by witnesses that the Decedent was purposefully jumping in front of additional vehicles and running in lanes of traffic. CHP dispatch broadcast this information and added that Decedent was possibly a suicidal party.

Defendant, Officer Ramon Silva, responded to the call and arrived on scene to check on the welfare of Decedent. When he arrived, he reported to dispatch that Decedent had his hands in his pockets. CHP Officer Van Dragt arrived on scene shortly thereafter and exited his vehicle. As the officers approached Decedent, they instructed him to take his hands out of his pockets repeatedly. Decedent failed to comply with the officer's commands.

Without warning, Decedent suddenly took both hands out of his pockets, produced an unknown object in his right hand, and positioned himself in a shooting stance. He began to run towards Officer Van Dragt with the unknown object in his hand, causing Officer Van Dragt to retreat to the front of his patrol vehicle. Decedent then ran around the back of Officer Van Dragt's patrol vehicle and continued to advance in a shooting stance with the unknown object in his hands. Fearing for his life and the life of his partner, and not knowing what the object was that Decedent had in his hands, Officer Silva utilized lethal force to stop the threat of the advancing Decedent. Life-saving measures were performed on the decedent, however he ultimately succumbed to his injuries.

This officer-involved shooting was investigated by special agents from the Department of Justice California Police Shooting Investigation Team pursuant to Assembly Bill 1506. This investigation was completed in July 2024. Plaintiffs'

1 subsequently issued a subpoena duces tecum for the investigative materials from  
2 the Department of Justice, which were produced on September 11, 2024. These  
3 materials include interviews with witnesses who witnessed Decedent's actions both  
4 prior to and right before the officer-involved shooting. Many of these individuals,  
5 whom Defendants are working on locating so that their depositions can be taken,  
6 reported to the special agents that Decedent was not only jumping in and out of  
7 traffic and purposefully trying to get hit, but also that he had tried putting his head  
8 underneath the tire of a semi-truck immediately after he was hit by a separate semi-  
9 truck. These witnesses' accounts of Decedent's behavior on the date of the incident  
10 are consistent with the Plaintiffs' deposition testimony and their allegations that  
11 Decedent suffered from, and had been diagnosed with, schizophrenia and bipolar  
12 disorder many years prior.

13 This wrongful death and survival action is brought by Decedent's parents,  
14 Plaintiffs Sandra Kirkman and Carlos Alaniz, Jr. Plaintiffs claim that Officer  
15 Silva's use of force and alleged denial of medical care caused Decedent's death.  
16 Plaintiffs seek damages for decedent's "pre-death pain and suffering, loss of life,  
17 and loss of enjoyment of life, for violation of Decedent's rights." Complaint, at ¶  
18 47.

19 To assist with assessing Plaintiffs' claims for liability and damages,  
20 Defendants issued a subpoena duces tecum seeking production of Decedent's  
21 psychological and medical records. Declaration of Deputy Attorney General Ashley  
22 Reyes (Reyes Decl.), at ¶ 2, Exhibit A. Plaintiffs objected to the subpoena. Reyes  
23 Decl., at ¶ 3, Exhibit B. Accordingly, Defendants respectfully request that the Court  
24 issue an order enforcing the subpoena for Decedent's psychological and medical  
25 records by either compelling the facilities to produce the requested records,  
26 compelling Plaintiffs to sign an authorization for the facility authorizing release of  
27 the records sought in the subpoena duces tecum, or compel Plaintiff to produce the  
28 full, unredacted set of records from the Veteran's Administration in their



1 possession, and subject to the stipulated protective order.

2 **B. Plaintiffs' Introductory Statement**

3 This civil rights and state law tort action arises of the fatal officer-involved  
4 shooting of John Alaniz (hereinafter "Mr. Alaniz" or "Decedent"), on May 4, 2022,  
5 on the 105 westbound freeway in Paramount, California by Defendant CHP Officer,  
6 Ramon Silva (hereinafter, "Silva" or "Officer Silva"). Mr. Alaniz was 34 years-old  
7 at the time of his death. The primary issue in this case is whether Silva used  
8 excessive and unreasonable deadly force when he shot and killed Mr. Alaniz, who  
9 was unarmed at the time of the shooting and at all relevant times. At his deposition,  
10 Silva testified, that prior to his arrival on scene he had obtained some information  
11 through dispatch that led him to believe that he would be responding to assist with  
12 someone who may be experiencing a mental health crisis. There were no reports  
13 that the person had injured or attempted to injure any other person. Silva also  
14 testified in his deposition that he did not have any information regarding the  
15 identity of the person to whom he was responding and that he had no prior contacts  
16 with that person – later identified as Mr. Alaniz. Silva therefore had no information  
17 regarding any particular diagnoses, treatment history, or any other specific  
18 information regarding Mr. Alaniz's physical or mental health history.

19 When Silva arrived on scene on his patrol unit motorcycle along the shoulder  
20 of the 105 freeway, another CHP Officer, Officer Van Dragt ("Van Dragt"), was  
21 also present and was attempting to facilitate traffic away from Mr. Alaniz, who was  
22 on the shoulder of the freeway. Van Dragt testified in his deposition that upon  
23 contacting Mr. Alaniz, Mr. Alaniz had his hands in his sweatshirt pocket. Van  
24 Dragt ordered Mr. Alaniz to remove his hands from his pockets, and Mr. Alaniz  
25 complied. Van Dragt saw that Mr. Alaniz's hands were empty before Mr. Alaniz  
26 put his hands back in his pockets. Mr. Alaniz approached Van Dragt with his hands  
27 out of his pockets and an object that Van Dragt understood was not a firearm in one  
28 of his hands. Because Van Dragt saw that the object was not a firearm, he holstered

1 his own firearm, and unholstered his taser instead. Van Dragt tactically repositioned  
2 to the other side of his patrol unit SUV, which put him between Mr. Alaniz and  
3 Silva. As Mr. Alaniz approached the officers, Silva deployed his firearm, shooting  
4 and killing Mr. Alaniz and striking some trucks, which were on the freeway behind  
5 Mr. Alaniz. The object that was in Mr. Alaniz's hands was a felt sunglasses case.

6 Plaintiffs are Mr. Alaniz's parents, Sandra Kirkman and Carlos Alaniz, who  
7 bring this suit individually and as successors-in-interest to Mr. Alaniz. Prior to his  
8 death, Mr. Alaniz was a veteran, and received health care, including mental health  
9 care, from the Veteran's Administration in Long Beach. Both Plaintiffs have sat for  
10 depositions and have responded to Defendants' propounded written discovery  
11 requests. By way of their overbroad and unlimited subpoena to the Veteran's  
12 Administration-Long Beach (hereinafter "VA"), Defendants seek to compel all  
13 mental health and medical records of Mr. Alaniz, without any time limit or other  
14 substantive limit. Plaintiffs respectfully request the court to deny Defendants'  
15 motion to compel, or in the alternative, limit Defendants subpoena to five years  
16 prior to Mr. Alaniz's death, and subject to the privileges outlined below.

## 17 **II. MEET AND CONFER EFFORTS**

18 Defendants sent an email to opposing counsel requesting a signed  
19 authorization pursuant to the Health Insurance Portability and Accountability Act of  
20 1996, Pub. L. 104-191 (HIPAA) from Plaintiffs on September 6, 2024. Reyes  
21 Decl., at ¶ 4. This email set forth the reasoning why the records are pertinent,  
22 namely the fact that Plaintiffs' have placed the decedent's mental health at issue  
23 based on their claims contained within the complaint. *Id.* Opposing counsel  
24 responded on September 9, 2024 indicating that they were not agreeable to  
25 providing a HIPAA authorization, and provided dates and times to meet and confer  
26 to discuss the issue further. *Id.* The parties met and conferred via telephone on  
27 September 13, 2024 wherein Plaintiffs' counsel offered to provide redacted  
28 versions of the records they have personally received from the Veteran's

1 Administration. *Id.* at ¶ 5. The parties met and conferred further via email on  
2 September 19-20, 2024, indicating that an impasse had been reached and an  
3 informal discovery conference was necessary. *Id.*

4 The parties attended an informal discovery conference with Magistrate  
5 Christensen on October 8, 2024 wherein the parties were ordered to continue to  
6 meet and confer further regarding these disputes. Doc. 30.

7 On October 11, 2024, the parties met and conferred via telephone further.  
8 Reyes Decl., at ¶ 6. The parties discussed the scope of the records, as well as the  
9 redactions of the records if Plaintiffs' counsel were to produce them. *Id.* Defense  
10 counsel requested that the scope be narrowed to eight years, since that was the  
11 timeframe to which Plaintiffs' claimed the Decedent began suffering from  
12 schizophrenia and bipolar disorder. *Id.* Plaintiffs' counsel suggested that the records  
13 be narrowed to five years. *Id.* Defense counsel also requested that Plaintiffs'  
14 counsel provide proof that the records produced by their office were the totality of  
15 the records from the Veteran's Administration. *Id.* Defense counsel further inquired  
16 as to the scope of the redactions and whether Plaintiffs still intended to redact third-  
17 party information that was covered by the protective order. *Id.* Plaintiffs' counsel  
18 indicated that she would need to check with the lead attorney and would get back to  
19 Defense Counsel. *Id.*

20 Defense counsel emailed opposing counsel on October 15, 2024, asking  
21 about the timeframe and scope of redactions and whether plaintiffs' position had  
22 changed. Plaintiffs' counsel proposed that the parties stipulate to amend the  
23 complaint so that the mention of Decedent's mental health was removed from the  
24 Complaint. *Id.* at ¶7. Plaintiffs' counsel also proposed amending the prayer for relief  
25 to be less overbroad and more specific, and that with these changes, Plaintiffs  
26 would not have opened the door or waived the psychotherapist-patient privilege. *Id.*  
27 Defense counsel responded the same day indicating that Defendants were not  
28 agreeable to this proposal and would seek a motion to compel the records requested

1 in the subpoena. *Id.*

2 **III. DISCOVERY AT ISSUE**

3 On July 2, 2024, Defendants issued a subpoena duces tecum on third party  
4 Veteran's Administration located in Long Beach California. The subpoena duces  
5 tecum sought the following records:

6 "1. All records pertaining to John Joseph Alaniz (DOB: 01/25/1988; SSN:  
7 XXX-XX-XXXX) including but not limited to medical summaries, intake sheets,  
8 intake notes, nurses notes, charts, chart notes, psychological records, counseling  
9 records, prescription records, images, photographs, x-rays, CT scans, MRI's,  
10 correspondence prescription scrips, laboratory reports and results, toxicology  
11 reports and results and any other records related to the medical, psychological or  
12 counseling treatment of John Joseph Alaniz (DOB: 01/25/1988; SSN: XXX-XX-  
13 XXXX

14 2. All DOCUMENTS evidencing the amounts or values of the medical  
15 services provided to John Joseph Alaniz (DOB: 01/25/1988; SSN: XXX-XX-  
16 XXXX) including but not limited to invoices, billings, payments applied to account  
17 from any source including write-offs, adjustments, ARI Statements, write-downs,  
18 and contractual allowances, written history of payments made by patient, insurance  
19 companies, Medicare, Medi-Cal, write-offs and adjustments, monetary  
20 disbursements, billed rates, paid rates. Correspondence, and all other documents  
21 and writings that are in your possession regarding the billing records related to the  
22 medical, psychological or counseling treatment and care of John Joseph Alaniz  
23 (DOB: 01/25/1988; SSN XXX-XX-XXX)."

24 Defendants acknowledge that category number two is not relevant to any  
25 claims and/or defenses, and therefore withdraw category two of the subpoena duces  
26 tecum.

27 ///

28 ///

1 **IV. PLAINTIFFS' OBJECTIONS**

2 On August 22, 2024, Plaintiffs served the following objections via USPS  
3 mail to the foregoing subpoena duces tecum:

4 "Plaintiffs hereby object to the production of any protected  
5 information of Decedent, John Alaniz, by Veteran's Administration,  
6 Long Beach Health Care, (VA Long Beach Health Care, 5901 E. 7th  
7 Street, Long Beach, CA 90822) including any and all medical records,  
8 psychological records, notes, counseling records, billing, records,  
9 medical summaries, intake sheets, intake notes, nurses notes, charts,  
10 chartnotes, psychological records, counseling records, prescription  
11 records, images, photographs, x-rays, CT scans, MRI's,  
12 correspondence, prescription scrips, laboratory reports and results,  
13 toxicology reports and results and any other records related to the  
14 medical, psychological or counseling treatment of Decedent John  
15 Alaniz in response to Defendants' subpoenas dated July 31, 2024,  
16 served on the VA on July 1, 2024 and served on Plaintiffs' Counsel on  
17 July 2, 2024. This objection is based on the following grounds:

18 "Plaintiffs object on the grounds that they do not waive any privileges  
19 and do not consent to the production of privileged or private  
20 documents. Plaintiffs further object on the grounds that the subpoena  
21 was improperly served under FRCP Rule 45(a)(4), is overbroad on its  
22 face, fails to seek documents that are reasonably likely to lead to the  
23 discovery of admissible evidence, and violates plaintiffs' rights to  
24 privacy. Plaintiffs contend that disclosing any and all of John Alaniz's  
25 records would be a violation of the Health Insurance Portability and  
26 Accountability Act (HIPAA), 42 U.S.C. § 299b-2, 45 C.F.R. §§  
27 164.502(a), 164.508(a)(1), the California Confidentiality of Medical  
28 Information Act, Cal. Civ. Code § 56.10, his psychotherapist-patient  
privilege *Jaffee v. Redmond*, 518 U.S. 1, 15 (1996), Fed. Rule Evid.  
Rule 501, the California Confidentiality of Medical Information Act,  
Cal. Civ. Code § 56.10, and his California constitutional right to  
privacy concerning medical information under Cal. Const. art I, § 1."

25 **V. PARTIES CONTENTIONS REGARDING DEFENDANTS' SUBPOENA**

26 **A. Defendants Contentions**

27 Defendants issued the subpoena duces tecum to the Veteran's Administration  
28 because: (1) the complaint specifically alleges that Decedent was suffering from a

1 mental health crisis at the time of the incident, See Complaint, at ¶¶18, 29, and 73  
2 (c) and (i); (2) Plaintiffs' have waived the psychotherapist-patient privilege by  
3 putting Decedent's mental health at issue by filing this lawsuit and seeking survival  
4 and wrongful death damages; (3) Plaintiffs' testified during their depositions that  
5 Decedent suffered from and was diagnosed with schizophrenia and bi-polar  
6 disorder which may have affected his encounter with CHP Officers on the date of  
7 the incident; (4) Plaintiffs seek damages for Decedent's emotional distress,  
8 including loss of enjoyment of life, loss of life, and loss of earning capacity, See  
9 Complaint, at ¶44; and (5) Plaintiffs are claiming damages for interference with  
10 their familial relations for the alleged wrongful death of Decedent.

11 Defendants contend that the foregoing subpoena duces tecum seeking  
12 Decedent's psychological and mental health records are necessary to reasonably  
13 prepare a defense to Plaintiffs' claims in this action.

14 **1. The Records Sought Are Relevant to the Claims and**  
15 **Defenses in This Action**

16 Federal Rule of Civil Procedure 26 provides, "[p]arties may obtain discovery  
17 regarding any nonprivileged matter that is relevant to any party's claim or defense  
18 and proportional to the needs of the case . . ." Fed. R. Civ. P. 26(b)(1). Relevant  
19 evidence is defined as "evidence having any tendency to make the existence of any  
20 fact that is of consequence to the determination of the action more probable or less  
21 probable than it would be without the evidence." Fed. R. Civ. P. 401. Relevancy to  
22 a subject matter is interpreted "broadly to encompass any matter that bears on, or  
23 that reasonably could lead to other matter that could bear on, any issue that is or  
24 may be in the case." *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).  
25 The Ninth Circuit instructs that "wide access to relevant facts serves the integrity  
26 and fairness of the judicial process by promoting the search for truth." *Epstein v.*  
27 *MCA, Inc.*, 54 F.3d 1422, 1423 (9th Cir. 1995).

28 ///

1 Recently, in *A.H. v. County of Los Angeles*, No. CV 22-03671-SB, 2023 WL  
2 3035349 at \*2 (C.D. Cal., Jan. 19, 2023), this Court addressed this same issue with  
3 Plaintiffs' counsels' firm. There, the Defendants sought to compel compliance with  
4 subpoenas issued on third parties for the decedent's medical records and argued that  
5 the psychotherapist-patient privilege was waived, the subpoenas were directly  
6 relevant to the plaintiffs' claims and damages, and any privacy concerns could be  
7 satisfied by producing the records subject to the terms of the existing protecting  
8 order. *Id.* Plaintiffs' counsel objected contending that the decedent's  
9 psychotherapist-privilege and/or HIPAA protections had not been waived, the  
10 information was not within the permissible scope of discovery, and the subpoenas  
11 were vague, overbroad, and should be limited in scope and time. *Id.*

12 The Court agreed with Defendants that the Plaintiffs had waived the  
13 psychotherapist-patient privilege when they put the decedent's mental health at  
14 issue by filing the lawsuit and seeking both survival and wrongful death damages.  
15 *Id.* The Court also found that Plaintiffs' put their relationship with the decedent at  
16 issue by filing the claim for wrongful death and sought damages for their own  
17 emotional pain and suffering. *Id.* at \*3; *see also I. R. v. City of Fresno*, Nos. 1:12–  
18 CV–00558–AWI–GSA, 1:13–CV–00850 AWI GSA, 2014 WL 1419305 at \*4  
19 (E.D. Cal. April 11, 2014.) (holding that “[t]he extent to which decedent was  
20 suffering from mental illness...at the time of the incident, may have affected his  
21 ability to participate in familial relationships and/or provide financial support to his  
22 family.”) The court in *A.H.* further noted that the information sought by the  
23 subpoenas was also relevant to any argument Defendants may assert that their use  
24 of force was reasonable in response to the decedent's aggressive behavior. *Id.*  
25 Finally, the court in *A.H.* found that the Plaintiffs put the decedent's mental health  
26 at issue by seeking damages for his emotional distress, including, “pre-death  
27 physical and mental pain and suffering, loss of life, and loss of enjoyment of life.”  
28 *Id.* at \*3.



1 Similarly, in *Nehad v. Browder*, No.: 15-CV-1386 WQH NLS, 2016 WL  
2 1428069 (S.D. Cal., Apr. 11, 2016), the parents of an individual shot by San Diego  
3 Police Department officers filed a lawsuit for excessive force, interference with  
4 familial relationship, assault, battery, negligence, and wrongful death. *Id.* at \*1.  
5 During discovery, the Plaintiffs sought a protective order to prohibit and/or limit  
6 the disclosure of the decedent's medical and mental health records. *Id.* Defendants  
7 argued they were entitled to the decedent's psychiatric and medical history because  
8 such records were relevant for the following reasons: (1) to determine the extent of  
9 how his schizophrenia, bipolar disorder, and PTSD affected his relationship with  
10 plaintiffs; and (2) to determine whether the decedent's mental state was impaired,  
11 and therefore, he acted irrationally and/or without proper judgment to corroborate  
12 the shooting officer's version of events. *Id.* The court held that the decedent's  
13 psychiatric and medical records were relevant because Plaintiffs "put their familial  
14 relationship with [d]ecedent at issue." *Id.* at \*5. The court also found that the  
15 records contained information that may bear on Plaintiffs' damages because the  
16 "valuation of their relationship [with decedent] is not a one-way street." *Id.*  
17 Accordingly, the court ordered production of decedent's mental health records,  
18 holding that, "[d]efendants are entitled to have the discovery process be fair to both  
19 parties so that each can present an effective and complete case to the jury." *Id.*

20 Here, the Decedent's psychological and medical health records are relevant  
21 to the claims and defenses in this lawsuit for several reasons. First, and most  
22 importantly, as in *A.H.*, the Plaintiffs have placed Decedent's mental health at issue  
23 by, among other things, seeking damages for his emotional distress and mental  
24 suffering, including pre-death pain and suffering, loss of life, and loss of enjoyment  
25 of life. Complaint, at ¶ 47. Accordingly, this information bears on the Decedent's  
26 mental pain and suffering as well as the loss of his enjoyment of life, which is  
27 certainly relevant.

28 ///



1 Second, based on the Plaintiffs' testimony, it is more likely than not that the  
2 Decedent's psychological and medical records will contain information concerning  
3 his mental health diagnoses, prescription medications, mental health treatment  
4 received, and could also reflect a history of suicidal ideation/attempts, treatment for  
5 suicide, reported self-harm, etc., all of which are directly relevant to Plaintiffs'  
6 wrongful death claims.

7 Third, these records may also contain information regarding whether  
8 Decedent exhibited any aggressive behavior during any of his previous mental  
9 health episodes. Plaintiffs testified that Decedent had "changed" after he was  
10 discharged from the Air Force in 2014 and was ultimately diagnosed with  
11 schizophrenia and bipolar disorder by the Veteran's Administration. Thus, any and  
12 all records from the time of his discharge in 2014 to the time of his death in May of  
13 2022 are relevant. Further, one of Plaintiffs' theory of liability is that Officer Silva  
14 negligently used deadly force against the Decedent who was experiencing a mental  
15 health crisis/distress, and the failure to provide appropriate responses to the obvious  
16 mental health crisis calls resulted in the Decedent's death. Complaint, at ¶ 73 (c)  
17 and (i). Given this theory of liability, information about the Decedent's mental  
18 health care and whether he exhibited aggressive tendencies during any prior mental  
19 health episodes are directly relevant to this litigation.

20 Fourth, Decedent's records will have information about whether his mental  
21 illness impaired his ability to gain employment and/or spend time with his family.  
22 Similar to the decedent in *Nehad*, Decedent's mental health records are directly  
23 relevant to Plaintiffs' alleged damages, including their Fourteenth Amendment  
24 claim and loss of familial relationship. Not only does this information bear on the  
25 amount of financial support Decedent would be able to provide to his family, but  
26 also the nature and quality of his relationship with them. See *Nehad*, 2016 WL  
27 1428069 at \*5.

28 ///

1 Finally, these records are pertinent and may explain the Decedent's behavior  
2 on the date of the incident. As in *I.R.*, whether Decedent was experiencing a mental  
3 health crisis may have affected how he responded to CHP officers on the date of the  
4 incident. *I. R.*, 2014 WL 1419305 at \*4(holding that the psychotherapist-patient  
5 privilege was waived in part because the decedent's mental illness may have  
6 affected the altercation he had with the police).

7 Multiple witnesses reported the Decedent jumping in and out of traffic on the  
8 date of the incident, and he was reported as possibly being suicidal. There is also  
9 video of the decedent purposefully jumping in front of a semi-truck, getting hit,  
10 then immediately placing his head underneath the tire of a second semi-truck. This  
11 behavior is consistent with Plaintiffs' testimony that Defendant suffered from  
12 Schizophrenia and Bipolar Disorder and may likely have affected his encounter  
13 with CHP officers. These records are therefore relevant and should be produced.

14 **2. Plaintiffs' Claim that 42 C.F.R. §2.2 Prevents Disclosure of**  
15 **Drug and/or Alcohol Treatment Records Lacks Merit**

16 During the Informal Discovery Conference, Plaintiffs claimed that the  
17 records they have in their possession from the Veteran's Administration include  
18 drug and/or alcohol treatment that the Decedent sought and are privileged and  
19 cannot be released pursuant to 42 C.F.R. §2.2. 42 C.F.R. § 2.64 provides  
20 procedures for disclosure of such records, and applies to "[r]ecords of the identity,  
21 diagnosis, prognosis, or treatment of any patient which are maintained in  
22 connection with the performance of any program or activity relating to substance  
23 use disorder education, prevention, training, treatment, rehabilitation, or research,  
24 which is conducted, regulated, or directly or indirectly assisted by any department  
25 or agency of the United States..."

26 ///

27 ///

28 ///

1 Defendants contend that any and all records related to Decedent's alcohol  
2 and/or drug treatment are relevant to Plaintiffs' claims and damages, and at the very  
3 least, should be provided for the Court to conduct an in-camera review to determine  
4 what records specific to any drug and/or alcohol treatment should be released.

5 **3. Any Privacy Concerns Can Be Satisfied by Producing the**  
6 **Records Subject to the Current Protective Order**

7 As discussed during the informal discovery conference, Defense counsel is  
8 agreeable to having the records produced subject to the existing protective order to  
9 satisfy any privacy concerns that the Plaintiffs have. Additionally, HIPAA routinely  
10 permits disclosure of medical and/or mental health records pursuant to a qualified  
11 protective order that prohibits the use or disclosure of "the protected health  
12 information for any purpose other than the litigation..." *Gonzalez*, No. 1:07-cv-  
13 00949 OWW GSA, 2009 WL 179779 at \*3 (E.D. Cal. Jan. 26, 2009); see, e.g.,  
14 *Camacho v. McCarthy*, Case No. EDCV 15-2043-JGB, 2020 WL 2510544 (C.D.  
15 Cal., Mar. 30, 2020) (overruling plaintiff's objection to defendant's subpoenas to  
16 her mental health care providers because such records are relevant to her claims and  
17 "any privacy concerns can be appropriately mitigated by a protective order").

18 **B. Plaintiffs' Contentions**

19 Mr. Alaniz's mental health records and medical records are not discoverable  
20 because they are outside the scope of Federal Rules of Civil Procedure, Rule  
21 26(b)(1). They are not relevant to either parties' claims or defenses regarding  
22 liability and damages. The records are also privileged under Mr. Alaniz's HIPAA  
23 protections, his psychotherapist-patient privilege, and to the extent that any the  
24 records contain information regarding whether Mr. Alaniz's sought or received  
25 substance use treatment at the Veteran's Administration in Long Beach under 42  
26 CFR Section 2.11 et seq.

27 ///

28 ///

1                   **1. The Records Sought Are Not Relevant to Either Parties’**  
2                   **Claims or Defenses.**

3                   **a. Liability**

4                   The exchange of information during the discovery process, under Federal  
5 Rule of Civil Procedure, Rule 26 is broad, but it is not without limitations. Rule  
6 26(b)(1) states in relevant part (emphasis added):

7                   Parties may obtain discovery regarding any *nonprivileged matter* that  
8 is relevant to any party's claim or defense and *proportional to the*  
9 *needs of the case, considering the importance of the issues at stake*  
10 *in the action*, the amount in controversy, the parties’ relative access to  
11 relevant information, the parties’ resources, the importance of the  
discovery in resolving the issues, and *whether the burden or expense*  
*of the proposed discovery outweighs its likely benefit.*

12                  The information Defendants seek by way of compelling the production of  
13 John Alaniz’s mental health and medical records from the VA is tangential to the  
14 primary issue in this case: whether Defendant Ramon Silva used of deadly force  
15 against decedent, John Alaniz was reasonable. To the extent that Defendants argue  
16 that the records are relevant to Plaintiffs’ claims of excessive force and negligence,  
17 such arguments misconstrue the reasonableness standard outlined in *Graham v.*  
18 *Connor*. 490 U.S. 386, 396 (1989). Indeed, in excessive use of force cases, it is well  
19 established that this inquiry is limited to the facts and circumstances known to the  
20 officers at the time that they fired. *Id.* (“The reasonableness of a particular use of  
21 force must be judged from the perspective of a reasonable officer on the scene,  
22 rather than with the 20/20 vision of hindsight.”); See also, *Tennessee v. Garner*,  
23 471 U.S. 1, 26 (1985).

24                  In *Glenn v. Washington Cnty.*, 673 F.3d 864, 873 (9th Cir. 2011), the Ninth  
25 Circuit reiterated that information *unknown* to an officer at the time of his use of  
26 force – or information *acquired after the incident* by investigators or during  
27 discovery – cannot be considered in the reasonableness analysis. In *Glenn*, officers  
28 used a beanbag gun to shoot a man with a knife who was threatening suicide.

1 Unknown to the shooting officer at the time of the incident, a witness told a 911  
2 operator that the suspect “was threatening to kill everybody” and might “run at the  
3 cops with a knife.” *Id.* Rejecting the District Court’s “suggestion that, ...these  
4 statements provide uncontroverted evidence demonstrat[ing] that the officers’  
5 safety concerns were not at odds with information provided to law enforcement,”  
6 the Ninth Circuit reiterated, “[w]e cannot consider evidence of which the officers  
7 were unaware...” *Glenn v. Washington Cnty.*, 673 F.3d 864, 873, n.8 (9th Cir.  
8 2011) (citing *Graham*, 490 U.S. at 396). Accordingly, in the Ninth Circuit, juries  
9 are instructed that they “must judge the reasonableness of a particular use of force  
10 from the perspective of a reasonable officer on the scene” at the time of the use of  
11 force “and not with the 20/20 vision of hindsight.” *Id.*; Ninth Circuit Model jury  
12 Instruction 9.25 (June 2024 edition); *Jackson v. City of Bremerton*, 268 F.3d 646,  
13 651 (9th Cir. 2001).

14 Therefore, information that Defendant Silva did *not* have at the time he used  
15 lethal force against Mr. Alaniz is not relevant to the use of force analysis, nor  
16 Plaintiffs’ claims for excessive use of force or negligence. Silva did not have any  
17 specific information regarding Decedent’s mental health diagnoses, let alone  
18 Decedent’s mental health and medical records. Because these records are after-  
19 acquired information, not within the officer’s knowledge at the time of the  
20 shooting, they cannot be considered in the reasonableness analysis of his use of  
21 deadly force, as such records would fall under “the vision of 20/20 hindsight” that  
22 the Ninth Circuit prohibits. *Jackson*, 268 F.3d at 651. They are therefore not  
23 relevant.

24 For the same reasons, Mr. Alaniz’s state of mind at the time of the shooting  
25 is also not a proper inquiry and is not relevant under the Fourth Amendment use of  
26 force analysis. See *Valtierra v. City of Los Angeles*, 99 F. Supp. 3d 1190, 1193  
27 (C.D. Cal. 2015). In *Valtierra*, Defendants sought to introduce evidence of the  
28 Decedent’s criminal history, and specifically that the decedent was subject to a

1 Deferred Entry of Judgment, and therefore had motivation to avoid detention and  
2 arrest. *Id.* However, the court held that such information was not relevant to any of  
3 plaintiffs' claims, which included excessive force and negligence, on the basis that  
4 that information was not known to the shooting officer at the time of the incident.  
5 *Id.* Just as in *Valtierra*, Defendant Silva had no information regarding Mr. Alaniz's  
6 state of mind at the time of Silva's use of deadly force, and such information  
7 therefore is not relevant to the inquiry.

8 In several paragraphs of their Complaint, Plaintiffs allege that Decedent was  
9 likely experiencing a mental health crisis, and was exhibiting "obvious signs of a  
10 mental health crisis." Because Silva had some limited information that Mr. Alaniz  
11 may have been experiencing a mental health crisis (including the information from  
12 dispatch described in Defendants Contentions, *supra*), he had an obligation to  
13 respond using appropriate intervention strategies, consistent with Police Officer  
14 Standards and his own training. The information Defendant Silva had at the time of  
15 his use of force is relevant to this inquiry of whether Silva's use of deadly force was  
16 reasonable, consistent with his training and standardized law enforcement training  
17 and policies, as well as to the pre-shooting tactics Defendant Silva used. *See Hayes*  
18 *v. Cnty. of San Diego*, 736 F.3d 1223, 1235-1236 (9th Cir. 2013) (finding that an  
19 officer's duty to act reasonably when using deadly force extends to their pre-  
20 shooting conduct).

21 Furthermore, to the extent that Defendants argue that the records are relevant  
22 to liability because they may indicate whether Mr. Alaniz exhibited any past  
23 "aggressive behavior," such argument unveils the fishing expedition inherent in this  
24 overbroad subpoena. Whether Mr. Alaniz exhibited any prior "aggressive  
25 behavior," any evidence of which is totally unsupported in the record, has no  
26 bearing on whether Defendant Silva's use of deadly force at the time of the incident  
27 was reasonable. Again, Silva had no prior contacts with Mr. Alaniz and had no  
28 knowledge of any alleged past "aggressive behavior," and constitutes improper

1 character evidence. This subpoena is therefore outside the scope of Rule 26(b)(1) in  
2 that is not reasonably calculated to lead to admissible evidence.

3 **b. Damages**

4 Additionally, Mr. Alaniz's mental health records are also not relevant to  
5 Plaintiff's claims for damages. Plaintiffs are claiming wrongful death and survival  
6 damages (including Mr. Alaniz's pre-death pain and suffering). Defendants argue  
7 that the records are relevant to Plaintiffs' claims for damages because the  
8 information contained in the records could be relevant to the parents' claimed  
9 damages relationship with their son. This argument fails. The plaintiffs in this case  
10 have already sat for deposition in this matter and testified as to the quality of their  
11 relationship with their son, Mr. Alaniz, including in the context of his mental health  
12 diagnoses. Plaintiffs do not intend to rely on Mr. Alaniz's mental health or medical  
13 records to establish their damages. Additionally, as to their own emotional distress  
14 as a result of their son's death, Plaintiffs have already stipulated with Defendants  
15 that they are only seeking damages for the "garden variety," emotional distress that  
16 would naturally result for anyone who loses their son.

17 As to Mr. Alaniz's survival damages, and in particular, those for pre-death  
18 pain and suffering, Plaintiffs are claiming damages for Mr. Alaniz's pre-death pain  
19 and suffering from the injuries he sustained as a result of *the uses of deadly force*  
20 *against him*, not pre-death pain and suffering from prior to the date of the incident.  
21 Mr. Alaniz's mental health and medical records from before the incident are also  
22 not relevant to his pre-death pain and suffering resulting from the use of deadly  
23 force against him.

24 **2. The Records Sought Are Privileged Under John Alaniz's**  
25 **HIPAA Protections and his Psychotherapist-Patient**  
**Privilege**

26 Even if this Court finds that the records sought are relevant to the parties'  
27 claims and defenses, Plaintiffs contend that they are privileged, under the  
28 Decedent's psychotherapist-patient privilege and his HIPAA protections. "The test



1 of whether [defendant] should obtain access to [plaintiffs'] medical records is ...  
2 whether the privilege has been waived by putting the privileged information 'at  
3 issue.' ” *E.E.O.C. v. Serramonte*, 237 F.R.D. 220, 224 (N.D. Cal. 2006) (citing  
4 *Fritsch v. City of Chula Vista*, 187 F.R.D. 614, 625-26 (S.D. Cal. 1999)).

5 Plaintiffs understand that this Court’s tentative finding at the Informal  
6 Discovery Conference held on October 8, 2024 was that Plaintiffs had waived the  
7 psychotherapist-patient privilege when they filed a law suit including allegations  
8 that the Decedent was experiencing a mental health crisis at the time of the shooting  
9 incident that is the subject matter of this case. To address this Court’s concern in  
10 that regard, Plaintiffs offered to stipulate to amend the Complaint to remove the  
11 current allegations referencing Decedent’s potential mental health crisis on the date  
12 of the incident. Defendants were not agreeable.

13 In *Jaffee*, the Supreme Court recognized that litigants possess a  
14 psychotherapist-patient privilege, holding that “confidential communications  
15 between a licensed psychotherapist and her [or his] patients in the course of  
16 diagnosis or treatment are protected from compelled disclosure under Ruel 501 of  
17 the Federal Rules of Evidence. *Jaffee v. Redmond*, 518 U.S. 1, 15, (1996); See also,  
18 *Oleszko v. State Comp. Ins. Fund*, 243 F.3d 1154, 1156 (9th Cir. 2001). In so  
19 holding, the Court further noted that:

20 The psychotherapist-patient privilege serves the public interest by  
21 facilitating the provision of appropriate treatment for individuals  
22 suffering the effects of a mental or emotional problem. The mental  
23 health of our citizenry, no less than its physical health, is a public  
24 good of transcendent importance.  
25 *Jaffee*, at 518 U.S. at 11.

26 Since that decision, courts across circuits have evaluated whether the  
27 psychotherapist-patient privilege is waived across a spectrum of applications, and  
28 no consensus has yet been reached. *See Fitzgerald v. Cassil*, 216 F.R.D. 632, 636  
(N.D. Cal. 2003) (collecting cases). Under the broad approach, an allegation that



1 the plaintiff has experienced emotional distress constitutes a waiver. *Sarko v. Penn-*  
2 *Del Directory Co.*, 170 F.R.D. 127 (E.D. Penn. 1997). However, courts in the Ninth  
3 Circuit have rejected this approach, finding that it expressly violates the holding  
4 and purpose of *Jaffee. Fitzgerald*, 216 F.R.D. at 636. Under the “middle ground”  
5 approach, courts adopt the same standard as that which applies in a Rule 35  
6 examination, holding that even plaintiffs who alleged emotional distress, but not “a  
7 separate tort for the distress, any specific psychiatric injury or disorder, or  
8 unusually severe distress” did not constitute a waiver of the psychotherapist patient  
9 privilege. *Id.*, quoting *Jackson v. Chubb Corp.*, 193 F.R.D. 216 (D.N.J. 2000); see  
10 also *Ruhlmann v. Ulster County Department of Social Services*, 194 F.R.D. 445,  
11 449 (N.D.N.Y. 2000) (finding waiver only when a patient alleges more than  
12 “garden variety” emotional distress, such that “significant emotional harm is  
13 alleged or the mental condition is at the heart of the litigation.”).

14 Courts have also adopted a narrower approach to analyzing whether the  
15 psychotherapist patient privilege is waived. Under the narrow approach, courts have  
16 held that there must be “an affirmative reliance on the psychotherapist-patient  
17 communications before the privilege will be deemed waived.” *Fitzgerald*, 216  
18 F.R.D. at 636, citing *Vanderbilt v. Town of Chilmark*, 174 F.R.D. 225 (D.Mass.  
19 1997) (“privilege is waived if the communication between a psychotherapist and  
20 patient is, itself, put at issue by the patient”); *Hucko v. City of Oak Forest*, 185  
21 F.R.D. 526 (N.D.Ill.1999) “[T]he very nature of a privilege is that it prevents  
22 disclosure of information that may be relevant in the case, in order to serve interests  
23 that are of over-arching importance.”).

24 By way of their argument, Defendants ask the Court to apply the broad  
25 approach and find that Plaintiffs have waived the psychotherapist-patient privilege.  
26 Other courts in the Central District have rejected the “broad” approach as  
27 inconsistent with *Jaffee*. Instead, opted to apply either the middle or narrow  
28 approaches, reasoning that the broad approach “eviscerates” the psychotherapist-

1 patient privilege articulated in *Jaffee*. See *M.S. v. City of Fontana*, No.  
2 EDCV162498JGBSPX, 2018 WL 6075323 at \*3 (C.D. Cal. July 12, 2018) (“the  
3 broad approach may find waiver even if the psychotherapy treatment has little  
4 bearing on the claims, a result that would largely eviscerate the privilege.”), see  
5 also *Ryan v. Putnam*, No. CV1705752CASRAOX, 2021 WL 9721273 at \* 5 (C.D.  
6 Cal. July 26, 2021) (rejecting application of the broad approach), and *Boyd v. City*  
7 *and County of San Francisco*. No. C-04-5459 MMC(JCS), 2006 WL 1390423  
8 (N.D. Cal. May 18, 2006) (applying the narrow approach in wrongful death action  
9 where Decedent’s mental state in issue, finding that it “best embodies the goals set  
10 forth in *Jaffee*.”). The records Defendants seek by way of this subpoena are  
11 squarely within the confines of records contemplated in *Jaffee*, and are therefore  
12 subject to Decedent’s psychotherapist-patient privilege. Here, under both the  
13 “middle ground,” and narrow approaches, Plaintiffs have not waived Decedent’s  
14 psychotherapist-patient privilege. Plaintiffs request that the Court apply the narrow  
15 approach to evaluating waiver, so as to protect the “primacy of the privacy interests  
16 inherent in the privilege.” *Fitzgerald*, 216 F.R.D. at 638.

17 This case is analogous to *Jones v. Cnty. of Del Norte, California*, No. C08-  
18 3222 CW (BZ), 2010 WL 11714135 (N.D. Cal. Apr. 1, 2010). In that case, the  
19 plaintiffs had potentially put the decedent’s mental status at issue by virtue of filing  
20 their lawsuit and including claims for wrongful death and survival damages.  
21 However, the Court rejected the broad approach, finding it inconsistent with *Jaffee*,  
22 and found that the privilege was not waived. *Id.* at \*1. Furthermore, the Court  
23 reasoned that a question of life expectancy by way of claiming wrongful death  
24 damages is an insufficient basis to waive a decedent’s psychotherapist patient  
25 privilege.

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1 Similarly, in *Valentine v. First Advantage Saferent Inc.*, the court found that  
2 under either the narrow or middle approach to waiver, the plaintiff had not waived  
3 his psychotherapist-patient privilege, despite asserting a claim for which he could  
4 recover damages for emotional distress and humiliation. No. EDCV 08-142-  
5 VAP(OPX), 2009 WL 3841967 (C.D. Cal. Sept. 18, 2009). Because the plaintiff  
6 had not “pled a cause of action for intentional or negligent infliction of emotional  
7 distress, ha[d] not alleged a specific psychiatric injury or disorder or unusually  
8 severe emotional distress, and has agreed that he will not testify that he sought or  
9 obtained psychological treatment and will not call [his psychologist] as a witness,”  
10 the plaintiff had not waived his psychotherapist patient privilege under either the  
11 middle ground or narrow approach.

12 Just as in *Valentine*, Plaintiffs have not alleged any specific infliction of  
13 emotional distress claims on Mr. Alaniz’s behalf, have not alleged any specific  
14 psychiatric injury or disorder or unusually severe emotional distress, and have not  
15 relied on Mr. Alaniz’s treatment with his psychotherapist(s) or psychologist(s) in  
16 pursuing their claims and damages. Plaintiffs contend that on these bases, the  
17 privilege has not been waived and the documents should not be released.

18 **3. To the Extent That the Records Contain Information**  
19 **Regarding Any Drug or Alcohol Treatment, Such Records**  
**and Information are Confidential.**

20 In 2020, a final rule revising the federal regulations governing the  
21 Confidentiality of Substance Use Disorder Patient Records, Title 42 CFR Part 2  
22 (Part 2), was released by the Substance Abuse and Mental Health Services  
23 Administration and U.S. Department of Health and Human Services. Alcohol and  
24 drug abuse patient treatment records are confidential and may only be disclosed in  
25 limited circumstances. 42 C.F.R. §§ 2.1(a), 2.2(a) (2008). Limiting disclosure is  
26 meant to ensure that a person who seeks treatment for addiction is not made more  
27 vulnerable than an addict who does not seek treatment. § 2.3(b)(2). In the absence  
28 of patient consent, a party seeking access to such records must obtain a court order

1 upon a showing of good cause. Courts assess good cause by “weigh[ing] the public  
2 interest and the need for disclosure against the injury to the patient, to the  
3 physician-patient relationship, and to the treatment services.” §§ 2.1(b)(2)(C),  
4 2.2(b)(2)(C). Protection against disclosure continues even after the patient’s death.  
5 §§ 2.1(d), 2.15(b)(2).

6 The regulation pertains to any reference to an individual’s substance use  
7 disorder or condition that caused that substance use disorder; and the scope of the  
8 prohibition of disclosures extends to any information identifying a patient as being  
9 or having been diagnosed with a substance use disorder or having been referred for  
10 treatment. *Id.* at §§2.11, 2.12. In other words, it would be improper even in the  
11 instant stipulation to even identify if any party or witness to this action received any  
12 substance use treatment. “[I]t is clear that the privilege provided by 290dd is a  
13 strong one and is not to be lightly set aside.” *State v. Ctr. For Drug Free Living,*  
14 *Inc.*, 842 So. 2d 177, 181 (Fla. Dist. Ct. App. 2003). The additional protections  
15 under 42 CFR Part 2 for protection of disclosure of patient’s confidential  
16 communications have been literally interpreted—thus, “[a] court cannot order  
17 disclosure of a patient’s confidential communications merely because the patient  
18 has sued someone or has plead matters that seem related to the subject of the  
19 confidential communications.” *Jane H. v. Rothe*, 488 N.W.2d 879, 884 (N.D. 1992)  
20 (pleadings that raise an emotional/mental health question is an inadequate basis for  
21 disclosure).

22 If any of the records sought from the VA contain information regarding  
23 whether Mr. Alaniz sought, received, or otherwise obtained substance use treatment  
24 at the Veteran’s Administration, it should not be produced, given the privileges  
25 outlined above. In weighing the public interest and the need for disclosure against  
26 the injury to the patient, to the physician-patient relationship, and to the treatment  
27 services, the balance clearly is in favor of non-disclosure. The public has no interest  
28 in whether Mr. Alaniz engaged in any substance use treatment at the Veteran’s

Administration. To the contrary, it in the public's interest *not* to disclose such records or information, given the importance of facilitating substance use disorder treatment among the general public. Disclosure undermines this policy. Mr. Alaniz and Plaintiffs would suffer injury if records disclosing whether Mr. Alaniz sought or received substance use treatment, as it would be disclosing confidential information.

**4. A Protective Order is Necessary, but Not Sufficient to Protect Mr. Alaniz's Privileged Information.**

Should this Court find that the records sought shall be produced, Plaintiffs request that the records be produced pursuant to this Court's Protective Order in place in this case. However, even documents produced pursuant to a protective order may contain redactions for information if that information is privileged. Those privileges must be identified and supported in a privilege log. Fed. R. Civ. Pro. 26 (b)(5). Indeed, Defendants have produced several documents pursuant to the protective order, with blocks of text redacted, with a corresponding privilege log.

**VI. CONCLUSION**

**A. Defendants' Conclusion**

Based on the foregoing, Defendants respectfully request that the Court issue an order either: (1) compelling the facilities to produce the requested records; (2) compelling Plaintiffs to sign an authorization for release of the records sought in the subpoena; (3) or compelling Plaintiffs' counsel to produce complete, unredacted copies of the records sought in the subpoena duces tecum subject to the stipulated protective order.

**B. Plaintiffs' Conclusion**

For the foregoing reasons, Plaintiffs request the Court to decline to issue an order compelling the Veteran's Administration to produce the requested records; compelling Plaintiffs to sign an authorization to release the records; or compel

1 Plaintiff's counsel to produce the records absent any redactions. If this Court is  
2 inclined to order disclosure of any of Mr. Alaniz's medical and psychological  
3 records, then Plaintiffs respectfully request that the Court limit the scope of the  
4 subpoena to records from May 2017, or five years prior to the incident, limit to  
5 decedent's psychological and medical records only (not include any billing  
6 records); and that the records be produced to Plaintiffs' counsel to make redactions  
7 based on Decedent's privileges, as claimed above.

8 Dated: October 22, 2024

Respectfully submitted,

9 ROB BONTA  
10 Attorney General of California  
11 NORMAN D. MORRISON  
Supervising Deputy Attorney General

12  
13 /s/ Ashley Reyes  
ASHLEY REYES  
14 Deputy Attorney General  
Attorneys for Defendants, State of  
15 California acting by and through the  
California Highway Patrol, and  
16 Officer Ramon Silva

17 Dated: October 22, 2024

Respectfully submitted,

18 LAW OFFICES OF DALE K.  
GALIPO

19  
20 "/s/ Shannon Leap (as authorized on  
10/22/2024)."  
21 DALE K. GALIPO  
22 SHANNON LEAP  
Attorneys for Plaintiffs

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## CERTIFICATE OF SERVICE

Case Name: **Sandra Kirkman, et al. v. State of California, et al.** No. **2:23-cv-07532-DMG-SSC**

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I hereby certify that on October 22, 2024, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**JOINT STIPULATION REGARDING MOTION TO COMPEL COMPLIANCE WITH SUBPOENAS FOR DECEDENT'S MEDICAL AND/OR MENTAL HEALTH RECORDS**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on October 22, 2024, at Fresno, California.

.

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Carrie Vue  
Declarant

---

/s/ *Carrie Vue*  
Signature